

**BOROUGH OF WIND GAP  
29 MECHANIC STREET  
WIND GAP, PA 18091  
863-7288  
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The Council meeting of the Borough of Wind Gap on Monday, August 2, 2010, was called to order at 7:30 p.m. by Council President, Scott Parsons, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: John Maher, Dave Hess, Kerry Gassler, George Hinton, Joe Weaver, and Tony Curcio. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer, Brian Pysher and Borough Administrator Louise Firestone.

Council President Scott Parsons and Council welcomed Councilman Tony Curcio back after his brief illness. Tony thanked everyone for the card and their thoughts.

**PUBLIC COMMENT**

1. Lorraine Ruscher, 132 Jefferson Street, Wind Gap. Lorraine provided Mayor Shoemaker with a petition signed by neighbors regarding the property at 149 Jefferson Street, Wind Gap and spoke representing 26 neighbors. The house at 149 Jefferson Street was sold in 2007 and since then the property looks like a salvage yard. There are five to six cars in the driveway at any one time and several have not been moved over the past two years. Also their driveway is packed waist high with boxes and covered with large blue tarps all the way to the street. The sides of the house are also piled high with plastic containers and bags. Last year they started stripping wire by tying it to the speed limit sign in the front yard. This is done from early morning into the night, every day, sometimes using a spotlight late at night to see. There is wire piled up at the end of the driveway, and it is a mess. There are several people out there standing in the street working on this. It appears they are running a business from this house. This is a residential neighborhood, are they allowed to do this? If so, can they be asked to do it in the backyard, so they neighbors don't have to see this? This is lowering the housing prices in this neighborhood. In this economy, we don't need any other factors to depress the value of our homes. We understand the Borough of Wind Gap does not have property maintenance codes. We would like to know why and what would it take to develop and institute standard property maintenance codes so this property and others throughout the borough could be cleaned up. Scott Parsons informed the neighbors that the Borough currently does not have a Property Maintenance Code, but a committee has already been formed to work on the Property Maintenance Code for Wind Gap. Lorraine asked if the stripping of the wire off the speed limit sign allowed to be done. Chief Armitage stopped by the property last week and explained that they are buying the wire and stripping it and then selling for an income. The Chief asked them to clean up the property.

Linda Pope, 149 Jefferson Street, Wind Gap was in attendance and responded that they are stripping wire to make money to keep the house. She stated that there are four families and four generations living in the house. She is trying to clean up the driveway and should have that done by the end of the week. Brian Pysher stated that since where they are doing the work is in the Borough right-of-way they do it in the backyard.

Linda Davis, 115 Washington Street, Wind Gap stated that she understands the concern about this property, but there are other properties in the Borough that are no different than this one. She

requested that Council make the Maintenance Code uniform for all residents in the Borough and not single anyone specifically out when it comes to enforcing the code.

*Kerry Gassler excused himself from his seat at the Council table to address Council as a business owner in the Borough.*

2. Kerry Gassler stated that he has a problem with the Police Department. On Thursday, July 22, 2010, apparently they were conducting a speed trap from Tenth Street and pull a car into the BeerStein parking lot after 11:00 a.m. At noon they pulled a pick up truck over on the south side of the bar and the officer was there for quite a while and then the Chief came down to assist. Kerry called the Mayor and explained that he had this problem about six years ago, and after that it somehow got resolved. He called Council President to express his anger about losing lunch time business because a police car with the lights on was in his parking lot. At approximately 1:15 p.m. they pulled over another car so he went out and talked to the officer and vented his frustration. He informed her that this was his business, and the police were harassing him and his business. The next day, the Mayor came to see him and informed him that people pull over where they want to pull over. Kerry believes that the police can control where they pull people over. Kerry wanted to make Council aware of his position regarding this issue because if he gets nailed for harassment, he will be forced to proceed further. He understands that owning a bar is double-edged sword; he is paying his people to work, to make money in order to pay his taxes to support the police force. He understands that the Borough Police Department is in bad shape right now because so many officers are out, how can two officers on duty at the same time when the Borough can't provide 24 hour coverage. The Mayor replied that one of the part-time officers offered to work to do a speed check and that was implemented on that day. It is time to slow people down in Wind Gap.

Chief Armitage stated that at the last Council meeting, Borough residents were complaining about not seeing the police car out enforcing the speed limit. It takes two people to run the ENRADD device, one to watch the device and one to chase. They were set up to time people coming into the Borough down off the hill. The police car is at a complete stand still when a car goes by at 60 m.p.h. so it takes time to catch up to them. Most of the time, they do not catch up to the car until the light in front of the BeerStein and once the light changes, the car pulls into the first parking lot which happens to be the BeerStein lot. That specific day they stopped twelve cars, and of the twelve, three pulled into the parking lot. There is no intention to pull vehicles over in the BeerStein parking lot, but some drivers chose to pull in there. Kerry stated that if it happened incidentally it would be fine, but three times in a row is not acceptable. Kerry suggested that if a car pulls into his lot, the police officer make them move out to the street.

Scott suggested that a meeting be set up to work out his concerns. Kerry stated that he will set up cameras and do it the right way.

## **APPROVAL OF MINUTES**

**On motion** by Kerry Gassler to approve the minutes of the May 3, 2010 meeting and seconded by Tony Curcio. Roll call vote taken. In favor: T. Curcio, K. Gassler, D. Hess, G. Hinton, J. Maher, S. Parsons. Abstained: J. Weaver. Motion carried with a vote of 6-0-1.

**On motion** by Kerry Gassler to approve the minutes of the May 18, 2010 meeting and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

## **APPROVAL OF EXPENSES**

**On motion** by Tony Curcio to approve the expenses for the month of July in the amount of \$15,875.26 and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

## SOLICITOR'S REPORT

Ron Karasek reported that all the matters being handled by his law office for the Borough during the month of July are outlined in a report. The report includes the meetings attended as Borough Solicitor.

**Subdivision Matters:** N/A

**Land Development Matters:** Receipt, Review and Administration of Correspondence from Developer/Applicant, Review of File, Review of Improvements Agreement, Review of SALDO and written Memorandum to File re: Release of Performance Guarantee for 951 Broadway Car Wash – L.D. Plan. Receipt, Receipt and Administration of SALDO Waiver Form re: West Street L.D. Plan \*Water's Edge @ Wind Gap).

**Zoning and Other Land Use Matters:** July 12, 2010 – Meeting with Borough Zoning Officer re: Zoning Issues with Petro-Mart Free-Standing Sign. July 12, 2010 – attendance at specially convened meeting of Borough Planning Commission to discuss possible zoning map changes to Upper (North) Broadway.

**Developments on Outstanding Litigation:** Telephone Conference with Opposing Counsel re: settlement possibilities in PPL Cell Tower Case. Receipt, Review and Administration of Stenographic Transcript of Stipulation and Order in Tittle Injunction Lawsuit. Preliminary Legal Research on Petro-Mart Sign Issue for upcoming Zoning Hearing Board Hearing. Prepare Extension Agreement with Gearys re: Tittle Injunction Lawsuit.

**Court Decisions on Borough Cases:** N/A.

**Miscellaneous:**

Receipt, Review and Administration of Request for Heart and Lung Benefits, Review of Doctor's Notes and Legal Research re: T. Dailey Request. Prepare Template of a Borough Claim Form for Heart and Lung Benefits. Preparation of Template Denial Letter re: T. Dailey Heart and Lung Benefits Claim. Legal Research re: Request for Health Care Information and Discipline Information re: T. Dailey's Workers' Compensation Benefits Claim. Preparation of Monthly Solicitor's Report. Review various correspondence, subdivision and land development review letters, prepare correspondence, prepare extension agreements and approval forms for subdivision and land development matters and make and receive telephone calls.

**Outstanding Items:** Dentith storm water counterclaim (filed in response to Borough's injunction lawsuit and request for Borough's expenses) – no action taken and remains pending. Ordinance for loitering, begging and panhandling – pending but inactive. Ordinance for reimbursement of equipment, materials and supplies in responding to environmental, hazardous, safety or rescue events (police, fire or both?) – pending but inactive.

Ron Karasek stated that he is not sure what Council was requesting regarding an advertising contract. Scott explained that the Borough would need an agreement between an advertiser and the Borough for the advertising at the bus shelters.

Ron reported that after the July 12, 2010 meeting he forwarded an agreement for Mr. and Mrs. Geary for the razing/demolition property. Louise has the agreement signed by the Gearys, but it has to be signed by the Council President. Ron stated that he sent a letter to Mr. Keenhold with a general release and that the Borough would be willing to pay the \$500 provided he signs the release. He has not heard back from him. He has heard back from counsel for PPL regarding the cell tower, but because it is in litigation this topic should be discussed during an Executive Session. He is awaiting a map for the proposed zoning map change on upper Broadway. He has no further issues with general Heart and Lung matters involving the police. He does not have a signed waiver of sidewalk agreement back from Mr. Cortez. He requested a meeting be set up to discuss the fire company with respect to their ordinance.

Brian Pysher informed Council that the sidewalks in front of Mr. Cortez's property could be constructed and the waiver actually benefits him. Brian has not had any correspondence with Mr. Cortez. Ron stated that he spoke to Gibraltar's attorney, Pete Layman, who indicated that Mr. Cortez

has an issue with the relocation of the road. A meeting was held to discuss reconfiguring the road and Mr. Cortez was in attendance and agreed to the design and moved over as far as it could be, but when the road was actually staked out, Mr. Cortez wanted the road moved over even further or even reduce the width of the road. Brian stated that he reminded Mr. Cortez that his house required a variance because it encroached in the front yard setback so from the beginning the roadway was going to be close to the house. The only way to move the road was to go from a 34' cart way down to something other than that and that would not be good engineering practice to put a new road in and make changes. If Mr. Cortez does not sign the waiver for the sidewalk then the developer will just put the sidewalks in as was on the original plan. Ron asked if Council would want him to send a letter to Mr. Cortez informing about the position of the developer and the Borough if the agreement is not signed. It was decided that Mr. Karasek would contact Mr. Cortez's attorney, Nick Sabatine.

Ron reported that he will be attending the Zoning Hearing Board meeting this Wednesday on behalf of the Borough in regard to the PetroMart issue.

## **ENGINEER'S REPORT**

Brian Pysher asked about many zoning maps are required for the zoning ordinance amendment. Brian did contact Victor Rodite from the Slate Belt Council of Governments regarding retrieving the map from their files. Unfortunately, Victor believes that when the intern saved the file it was not saved in the correct format. Ron replied that he will need one for the Lehigh Valley Planning Commission for their review, one to attach to the proposed ordinance to go with the advertisement and one for the law library and copies for each of Council. Brian stated that he would make ten to fifteen copies of the map for all necessary parties. John Maher added that he spoke to Victor and they are working on opening the file. John will call him tomorrow and follow-up with him.

Brian contacted the salesman, John, from Handi-Hut regarding the bus shelters. It was decided that the electric should go through the top of the structure for lighting. John informed Brian that when the electric company has an idea how much electricity is required to light the shelter and they bill on an annual basis for electricity. Brian will contact the power company. He discussed a timer on the lighting so they turn on when it becomes dark, but will go off and not stay on all night.

Brian reported that he has a meeting with Army Corps of Engineers and Northampton County Conservation District tomorrow at the Third Street refuse collection property at 11:00 a.m. He received an estimate from Gene Schmauder to install the silt fence at a cost of \$1,245. Once the silt fence is installed the Borough will be able to stockpile materials there as long as the wetlands remain untouched. He spoke to Rettew, who did the original wetlands study, and they provided enough information for Brian to stake out the existing wetlands. The street crew is working on pulling back some material that encroached in the wetlands.

**On motion** by Kerry Gassler to hire Gene Schmauder at a cost of \$1,245 to install a silt fence on Third Street and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

Borough Council received a letter from Jeffrey and Deborah Karner, property located at 731 South Broadway, outlining their concerns regarding the street improvements and the pitch of their back side yard. Brian stated that the original design was to have a 3:1 bank in the yard so Brian wants to review the original agreement to verify that the grading is still within the grading easement. Mr. Karner spoke to the developer, Gibraltar, about a retaining wall, but Gibraltar was not receptive to that idea. The Karners acknowledged in their letter that they did not have a very good understanding of the design, but had they understood they would have requested the retaining wall from the beginning. Brian acknowledged that it does not look good right now and suggested that the Borough should wait until the final grading has been completed. They do have a signed agreement with the developer so even after the final grading the Borough may not want to get involved.

Gibraltar does have some of the curbing installed, but they have to finish the remaining curbing and install the handicap ramps.

The Lehigh storm water project started last week with the removal of all curb and sidewalk that was coming out. They started installing the pipe today along, started the existing inlet box at West Street and they will work up from there. There was some minor conflict with the Municipal Authority contractor who just moved in their equipment today and will not start working until Wednesday. The Borough contractor will have to go over top the line that they are replacing, which means when they replace their line they will have to dig underneath our new storm sewer. Brian will request that the Authority put a concrete saddle under the storm sewer pipes. Brian informed that Waste Management was notified regarding the closed road and garbage pick up, but he did not relies that the apartments on Lehigh Avenue has Herceg so he called their dispatcher to inform them that they could access the garbage dumpster.

He spoke to Mr. McIntrye regarding the "As Built" drawing that is necessary prior to releasing any of the funding. He contacted Mr. McIntrye's engineer so that will be prepared and submitted.

George asked about the West West Street project. Brian said the bid specifications should be ready within two weeks.

**On motion** by George Hinton to advertise the West West Street culvert project and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

## **COMMITTEE REPORTS**

1. EMS – Kerry Gassler reported that the Ambulance Corps responded to 56 calls in the month of June for a total of 321 for the year. He reported that the Corps will be holding a Spaghetti Dinner fundraiser at the Blue Valley Farm Show on August 20, 2010.

2. Fire Co. – Dave Hess reported that several of the members are taking the Essentials of Fire Fighting course which is the minimum requirement for the Fire Company. The Fire Company will hold their monthly meeting on August 16, 2010. Scott asked if the generator has been installed. Jeff Yob stated that Brent Shoemaker is going to the electrical work so when he is ready, Jeff will get with him and when he is ready it will be delivered and installed.

3. Zoning – Tony Curcio reported that a Zoning Hearing Board will be held on Wednesday, August 4, 2010 at 7:30 p.m. in borough chambers. Case 2-2010, Percy and Bobbie Reimer Co-owners of 404 Lehigh Avenue (PetroMart) regarding a sign issue.

4. Planning - Scott Parsons reported that the Planning Commission did not meet in July and will not meet in August since no plans have been submitted.

5. Municipal Authority – John Maher reported that the Authority was preparing for their Lehigh Avenue project. George stated where Second Street was dug up there is discussion on who is going to pave the little strip, is it the Municipal Authority, PA American Water or Gibraltar. The water company contractor is going to have paving to do on First Street, Second Street and Third Street on the west side. The Municipal Authority did not mark the road so it had to be opened a little wider and they say they do not have to pave it. He stated that the Authority should have their contractor pave the road. Brian added that his involvement was with Gibraltar and First Street. Gibraltar notified the water company to install the water line and a wet tap was done on Second Street at the existing main that was there. They ran it to the south and looped it up to the other end of First Street. Brian was informed that Gibraltar did a PA One Call, and the road was marked, but the sewer main was not marked. Gibraltar went off the plans as best as they could in the twelve foot alley. They put the wet tap in and a 20' section of pipe. The Municipal Authority had to move their sewer line over to accommodate the new water line and then because another trench had to be dug the contractor for the Authority wanted a change work order. The change order was time and materials which cost the Authority more money and they felt that it was all Gibraltar's fault. In response to that, they do not

want to pave any of the open road. George stated that the residents are the ones that have to drive through the street. Brian estimated it to be less than 1,000 sq. ft. of paving. The Authority would have had to cross the road whether Gibraltar had the water line installed or not. Brian added that a meeting was held and Gibraltar's stance and PA American Water's stance is the PA One Call was done and the main was not marked.

6. Streets – George Hinton reported that the street topics have already been discussed. Chief Armitage asked if more “No Parking” signs could be installed by the basketball courts in the Park. The Chief asked if the street department could cut back the weeds growing in the curblin. Scott suggested putting notice in the newsletter to have property owners cut the weeds in the sidewalk. Tony asked if the speed limit signs have been installed where PennDOT approved the reduction in speed along Third Street and Center Street. Brian will review the map so the signs are placed in the correct place.

7. Police – Mayor Shoemaker reported that the Police responded to 153 calls in the month of July, 4 motor vehicle accidents, issued 22 traffic citations and issued 4 parking tickets. Part-time officer Luis Ruiz has all his qualifications sent in to the state and should be receiving his verification any day.

8. Park – Joe Weaver reported that the Park Board did not meet in July. Scott added that he was in the park on Sunday and the entire park was being utilized, soccer on the Little League field, basketball on the courts, senior league baseball and the summer sounds concert.

9. 911 – Tony Curcio reported that he will need to provide the County 911 Center with update drawings for their CAD system. Brian will provide the As Built drawings when the project is completed. Dave Hess provided Tony with a list of the frequencies for the Fire Company.

10. Building Finance – Scott Parsons reported that a meeting is scheduled for August 12, 2010 with a Financial Advisor to gather information and a proposal for real estate.

11. Tipping Fees - Tony Curcio reported that the updated tipping fee worksheet will be updated and provided to Council in the next week or two.

12. Property Maintenance Code – Scott Parsons reported that the committee will be getting together.

## **MAYOR'S REPORT**

Mayor Shoemaker reported that the next Slate Belt Council of Government meeting will be held on August 25, 2010. The signs have been ordered for Constitution Avenue. No Pet signs have been ordered for the Park. The Mayor has a get well card for Robert Ambrose who recently had heart surgery. A Blood Drive sponsored by the Masonic Lodge will be held on August 21, 2010 from 9:00 a.m. to 1:00 p.m. at the lower little field in the Park.

## **NEW BUSINESS**

There was no new business before Council at this time.

## **OLD BUSINESS**

1. Scott Parsons stated that a procedure for the surveillance cameras must be implemented.

## EXECUTIVE SESSION

Council adjourned to Executive Session to discuss litigation and personnel issues at 8:55 p.m. Council reconvened at 9:14 p.m. Council President Scott Parsons stated that no action will be taken at this time.

**On motion** by Tony Curcio to adjourn the meeting of August 2, 2010 and seconded by John Maher. Council agreed unanimously.

The meeting of August 2, 2010 adjourned at 9:15 p.m.

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Louise Firestone, Borough Administrator